



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2

290 BROADWAY

NEW YORK, NY 10007-1866

SEP 16 2014

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Article Number: 7005 3110 0000 5946 8043

Steve Dunn, Plant Manager
Finch Paper, LLC
1 Glen Street
Glens Falls, NY 12801-2167

Re: **Finch Paper, LLC**
Information Request and Administrative Compliance Order
Docket No. CWA-02-2014-3052
SPDES Permit No. NY0005525

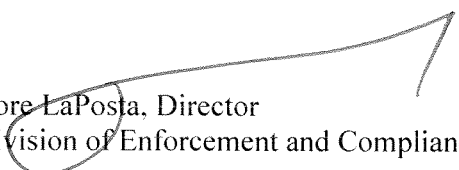
Dear Mr. Dunn:

The United States Environmental Protection Agency (“EPA”), Region 2, has made a finding that the Finch Paper, LLC facility located at 1 Glen Street, Glens Falls, NY is in violation of the Clean Water Act (33 U.S.C. § 1251 *et seq*) (“CWA” or “the Act”) for non-compliance with its New York State Department of Environmental Conservation (“NYSDEC”) State Pollution Discharge Elimination System (“SPDES”) Individual Permit NY0005525. Enclosed are two (2) originals of the Information Request and Administrative Compliance Order (together the “Order”) CWA-02-2014-3052 issued pursuant to Sections 308 and 309 of the Act, which details the findings.

Please acknowledge receipt of this Order on one of the originals and return it by mail in the enclosed envelope. Failure to comply with the enclosed Order may subject the facility to civil/criminal penalties pursuant to Section 309 of the Act. Failure to comply with this Order shall also subject the facility to ineligibility for participation in work associated with Federal contracts, grants or loans.

If you have any questions regarding the Administrative Order please contact Ms. Justine Modigliani, Chief, Compliance Section, Water Compliance Branch, at (212) 637-4268.

Sincerely,


Dore LaPosta, Director
Division of Enforcement and Compliance Assistance

Enclosures

cc: Joe DiMura, NYSDEC w/enclosures
Michael Dauphinais, NYSDEC via email

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

IN THE MATTER OF:

Finch Paper, LLC
1 Glen Street
Glens Falls, NY 12801-2167

Proceeding pursuant to Sections 308(a) and
309(a)(3) of the Clean Water Act, 33 U.S.C.
§§ 1318(a) and 1319(a)(3)

SPDES Permit No. NY0005525
RESPONDENT

**INFORMATION REQUEST AND
ADMINISTRATIVE COMPLIANCE ORDER**

CWA-02-2014-3052

The following Information Request and Administrative Compliance Order (together the "Order") are issued pursuant to Sections 308(a) and 309(a)(3) of the Clean Water Act ("CWA" or "Act"), 33 U.S.C. §§ 1318(a) and 1319(a)(3). This authority has been delegated by the Administrator of the United States Environmental Protection Agency ("EPA") to the Regional Administrator, EPA Region 2, and since further redelegated to the Director, Division of Enforcement and Compliance Assistance, Region 2, EPA.

A. LEGAL AUTHORITY

1. Section 301(a) of the CWA, 33 U.S.C. § 1311 (a), makes it unlawful for any person to discharge any pollutant from a point source to waters of the United States, except, among other things, with the authorization of, and in compliance with, a National Pollutant Discharge Elimination System ("NPDES") permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.
2. Section 402 of the CWA, 33 U.S.C. § 1342, authorizes the Administrator of EPA to issue a NPDES permit for the discharge of any pollutant, or combination of pollutants subject to certain requirements of the CWA and conditions which the Administrator determines are necessary. The New York State Department of Environmental Conservation ("NYSDEC") is the agency with the authority to administer the federal NPDES program in New York pursuant to Section 402(b) of the CWA, 33 U.S.C. § 1342(b). Under this authority, a State Pollutant Discharge Elimination System ("SPDES") permit is required to be issued to facilities by the NYSDEC for the discharge of pollutants from a point source to a navigable water of the United States. EPA maintains concurrent enforcement authority with authorized states for violations of the CWA.
3. "Person" is defined by Section 502(5) of the CWA, 33 U.S.C. § 1362(5), to include an individual, corporation, partnership, association or municipality.

4. "Discharge of a pollutant" is defined by Section 502(12) of the CWA, 33 U.S.C. § 1362(12), to include any addition of any pollutant to navigable waters from any point source.
5. "Pollutant" is defined by Section 502(6) of the CWA, 33 U.S.C. § 1362(6), to include among other things, solid waste, dredged spoil, rock, sand, cellar dirt, sewage, sewage sludge and industrial, municipal and agricultural waste discharged to water.
6. "Point source" is defined by Section 502(14) of the CWA, 33 U.S.C. § 1362(14), to include any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.
7. "Navigable waters" is defined by Section 502(7) of the CWA, 33 U.S.C. § 1362(7), to include the waters of the United States.
8. Section 308(a) of the CWA, 33 U.S.C. § 1318(a), provides, in relevant part, that the Administrator of EPA may require the owner or operator of any point source to, among other things: establish and maintain such records; make such reports; install, use and maintain such monitoring equipment; sample such effluents; and provide such other information as may reasonably be required to carry out the objective of the CWA.
9. Section 309(a) of the CWA, 33 U.S.C. § 1319(a) authorizes the Administrator to issue an order requiring compliance or commence a civil action when any person is found to be in violation of Section 301 of the CWA, 33 U.S.C. § 1311, or in violation of any permit condition or limitation in a permit issued under Section 402 of the CWA, 33 U.S.C. § 1342.
10. The term "Permit" or "Individual Permit" means the NYSDEC SPDES Permit NY0005525 issued to Finch Paper, LLC. The current permit is effective from October 1, 2011 until September 30, 2016. The current permit is the second renewal of the Permit that became effective on October 1, 2001 and was modified on January 8, 2003.

B. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Finch Paper, LLC. ("Respondent") is a "person" pursuant to Section 502(5) of the CWA, 33 U.S.C. § 1362(5).
2. Respondent owns and operates the pulp and paper mill at 1 Glen Street in Glens Falls, NY (the "Site" or "Facility").
3. From May 14 to May 22, 2013 EPA's National Enforcement Investigations Center ("NEIC") conducted a Multimedia Compliance Inspection that included a Clean Water Act component ("CWA Inspection") at the Site.
4. Process wastewater from the site discharges from internal Outfall 08A to Outfall 008 and then to the Hudson River. Cooling water and water overflow discharges discharge via Outfalls 011 and 012 into the (Forebay) Hudson River and the Hudson River respectively. Stormwater discharges from the site discharge to the Tail Race via Outfall 021, to the Glens Falls Feeder Canal via outfalls 022 to 027, and to the Hudson River via Outfall 009 and Outfalls 028 to 042.

5. The Hudson River, Glens Falls Feeder Canal and the Tail Race are all navigable waters of the United States pursuant to Section 502(7) of the Act, 33 U.S.C. § 1362(7).
6. Part I – Special Conditions – Best Management Practices of Respondent’s Permit require that the permittee shall maintain and implement a Best Management Practices (“BMP”) Plan. 40 CFR Part 430.03 requires that facilities discharging pulp, paper, and paperboard mills with pulp production in subparts B (Bleached Papergrade Kraft and Soda) and E (Papergrade Sulfite) develop and implement a BMP Plan consistent with the requirements in 40 CFR Part 430.03. During the CWA Inspection, Respondent did not have a BMP Plan.
 - a. Permit BMP No. 1 requires Respondent to implement a BMP Plan to prevent, or minimize the potential for release of significant amounts of toxic or hazardous pollutants to the waters of the State through plant site runoff; spillage and leaks; sludge or waste disposal; and stormwater discharges including, but not limited to, drainage from raw material storage.
 - b. Permit BMP No. 2 requires that the permittee shall periodically review all facility components or systems (including material storage areas: in-plant transfer, process, and material handling areas; loading and unloading operations; storm water, erosion, and sediment control measures; process emergency control systems; and sludge and waste disposal areas) where toxic or hazardous pollutants are used, manufactured, stored or handled to evaluate the potential for the release of significant amounts of such pollutants to Waters of the State.
 - c. Respondent’s Stormwater Pollution Prevention Plan (“SWPPP”) dated October 2008 contained some, but not all of the required BMP elements. The SWPPP did not include a review of all facility components or systems, but rather was limited to only those areas potentially exposed to stormwater. There is no reference to consideration of the effects of equipment failure, even though such failure has resulted in the release of pollutants at the facility (2011 pump station failure). Respondent’s SWPPP does not consider the history of spills, air deposition of pollutants, natural phenomena, or fires, and it does not conform with, address, or acknowledge the BMP Plan requirements set forth in 40 CFR Part 430.03 which are applicable to Respondent’s facility. Section C of the Areas of Concern of the attached CWA inspection report identifies additional deficiencies where the SWPPP does not conform with the Permit’s BMP requirements. Respondent’s SWPPP fails to comply with the BMP Plan requirements contained in its Permit.
 - d. Permit BMP No. 7 requires that the BMP Plan shall be reviewed annually and shall be modified whenever: (a) changes at the facility materially increase the potential for significant releases of toxic or hazardous pollutants, (b) actual releases indicate the plan is inadequate (c) or a letter from the Regional Water Engineer highlights inadequacies in the plan. Based on the CWA Inspection performed, Respondent has not conducted an annual review of its SWPPP and did not have a BMP Plan;
7. Based on review of the 2008 SWPPP and the CWA Inspection findings, the SWPPP did not address the following:
 - a. Respondent’s SWPPP, Part G, Non-Storm Water Discharges states that Outfall 027, which lies just south of the power plant, discharges demineralized water during maintenance

periods. Respondent's permit only authorizes stormwater discharges from Outfall 027, not demineralized water.

- b. Respondent's SWPPP (Page 15 of 47) identified a stormwater outfall between Outfalls 029 and 030 that was not included in the permit.
- c. Respondent's SWPPP contains outfall observations during a storm event on October 28, 2008. The SWPPP noted that there was oil in the discharge from Outfall 023, heavy silt at Outfall 027 and silt at Outfalls 028, 041 and 042. Respondent's SWPPP did not indicate the measures that would be taken to stop or reduce the oil or silt discharges.
- d. The SWPPP, stormwater outfall map, and SPDES Permit have not been modified to reflect substantial changes in how stormwater in the production areas of the plant is being captured and managed. Several outfalls identified in the SWPPP and in the SPDES permit (outfalls 036, 037, 038, 039, 040, and 041) have been consolidated and redirected.
- e. Appendix A of Respondent's SWPPP contained analytical data for several stormwater outfalls from 1992. BMP No. 4 requires sampling of waste stream segments for the purposes of toxic "hot spot" identification. No more recent data is available even though BMP No. 7 requires annual review of the BMP Plan. The 1992 data included, for example, outfalls where concentrations of pollutants appear to require additional follow up and source identification, such as:
 - i. Outfall 025 – which had a stormwater discharge containing 410 mg/l of Chemical Oxygen Demand ("COD") and 160 mg/l of Total Suspended Solids ("TSS");
 - ii. Outfall 029 - which had grab sample results of 167 mg/l of COD and 118 mg/l of TSS;
 - iii. Outfall 030 – which had grab sample TSS result of 147 mg/l, COD 383 mg/l and Five Day Biochemical Oxygen Demand ("BOD5") of 86 mg/l;
 - iv. Outfall 031 – which had grab sample results for COD of 239 mg/l, TSS of 86 mg/l, Total Kjeldahl Nitrogen ("TKN") of 2.7 mg/l and composite sample results for COD, TSS, and TKN of 124, 108 and 7.0 mg/l respectively;
 - v. Outfall 032 – which had grab and composite sampling results for Total Zinc of 1.7 and 2.0 mg/l respectively.
- f. The CWA inspection report identified outfalls from the facility that did not appear in the Permit as follows: 1) a PVC pipe on the north bank of the Glens Falls Feeder Canal along the west side of the Oak Ave. entrance bridge that would discharge to the Feeder Canal that drains the road surface and an area that could potentially receive runoff from the area west of the Power House Building; 2) an outfall to the Hudson River located across from the sulfur storage pipe near the pulp mill; 3) a potential outfall from a 30" diameter pipe that is fed by several storm inlets east of secondary clarifier No. 3; 4) potential outfall shown on the Site Plan that is fed by three drop inlets located between the Holding and Dewatering Basin and the West Aeration Basin. The CWA inspection report identified four drop inlets

located in the area between the No. 4 paper machine building and pulp preparation building, as well as other production areas where the SWPPP did not indicate if these inlets lead to the processed wastewater sewer or to a stormsewer.

- g. The CWA inspection report indicated that stormwater outfalls 034 and 035 actually consist of multiple, individual discharge pipes that are not described as such in the SWPPP or the Permit.
8. The General Conditions Part II.11.1.b of the Permit requires that the “permittee shall at all times, properly operate and maintain all facilities and systems of treatment control (or related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance also includes as a minimum, the following: 1) A preventative/corrective maintenance program 2) A site specific action oriented operation and maintenance manual for routine use, training new operators, adequate laboratory controls and appropriate quality assurance procedures...” Section 3.2.1(1) Page 22 of 107 of Respondent’s Wastewater Treatment Plant (“WWTP”) Operation and Procedure Manual (“O&M Manual”) states that Primary Clarifier No. 3 is equipped with a surface scum skimmer and scum trough. It also states that primary clarifiers 1 and 2 are similar to primary clarifier 3. Section 3.3.6 (1) General Housekeeping on page 27 of 107 of the O&M Manual states that “any buildup of skimming on the surface of the primary clarifiers can quickly become very obnoxious, especially in the summer and, therefore, should not be allowed to accumulate.” Area of Concern B and photographs 5 and 12 in Appendix J of the CWA Inspection report show oil and scum accumulated on the surface of primary clarifiers 1 and 3 and indicate that there are no surface skimmers on the primary clarifiers. Based upon these CWA Inspection findings, Respondent is not operating its WWTP in accordance with its O&M Manual nor properly operating and maintaining its WWTP in accordance with Part II.11.1.b of its Permit. Also note that Area of Concern B of the CWA Inspection report identified pin floc discharging over the weirs of the secondary clarifier. Section 4.9.2(4) on page 55 of 107 of the O&M Manual contains possible causes and corrective actions for suspended solids washout in the effluent.
9. Based upon Paragraphs above, EPA finds that Respondent is in violation of Sections 301 and 402 of the CWA, 33 U.S.C. §§ 1311 and 1342, and applicable implementing regulations.

C. ORDERED PROVISIONS

Based upon the foregoing and pursuant to the authority of Section 309(a)(3) of the Act, it is hereby ORDERED that:

1. Immediately (within 15 calendar days) upon receipt of the original copies of this Order, a responsible official of Finch Paper, LLC shall complete and sign the “Acknowledgment of Receipt” of one of the originals of the Order and return said original to the Chief, Water Compliance Branch, in the enclosed envelope to the address listed in paragraph E.1, below.
2. Within 120 calendar days of receipt of this Order, Respondent shall submit a BMP Plan to EPA and NYSDEC that fully complies with the Permit and with 40 CFR Part 430.03. The BMP Plan shall also include the monitoring required by the BMP Provisions of the Permit, 40 CFR Part 403.03, and as part of or in addition to BMP Plan monitoring, include monitoring of the outfalls listed in paragraph B.8.c and B.8.e. of the Findings.

3. EPA and the NYSDEC reserve the right to comment and request modifications of the BMP Plan. If Respondent receives comments on the BMP Plan then Respondent must submit a revised BMP Plan addressing comments that are consistent with the Permit and 40 CFR 430 within 30 calendar days of receipt of BMP Plan comments.
4. Within 180 calendar days of receipt of this Order or within 180 calendar days of receipt of comments on the BMP Plan from EPA and/or NYSDEC (only if comments received), whichever is later, Respondent shall submit written certification that Respondent is in full compliance with its BMP Plan, its Permit (except for Part II.11.1 that will be addressed by the paragraphs below) and 40 CFR Part 430.

Outfall Identification

5. Within 90 calendar days of receipt of this Order Respondent shall conduct all necessary dye tests, smoke tests, CCTV, and site survey work to ensure that all of its outfalls are properly permitted.
6. Within 120 calendar days of receipt of this Order, Respondent shall submit a written report and updated outfall map, along with the findings of the study required in the paragraph above, listing all unpermitted outfalls, whether permit coverage is needed for these outfalls, and all necessary documentation to EPA and to NYSDEC in order to have any unpermitted outfalls that require permit coverage regulated under the Permit.

Proper Operation and Maintenance of WWTP

7. Within 30 calendar days of receipt of this Order, Respondent shall submit a Plan of Action including a schedule, not to exceed 180 days from receipt of this Order, for the proper operation and maintenance of its treatment facilities in accordance with Part II.11.1 of the Permit and its WWTP Operation and Procedures Manual.
8. Within 180 calendar days of receipt of this Order, Respondent shall submit written certification that it has enacted the Plan of Action required under the above paragraph and is in full compliance with Part II.11.1 of its Permit.

D. REQUEST FOR INFORMATION

Based upon the foregoing and pursuant to the authority of Section 308(a) of the CWA, 33 U.S.C. § 1318(a), Respondent is required to submit the following to EPA and NYSDEC in writing:

1. Within (30) thirty days of receipt of this Order, submit the monthly stormwater outfall inspection reports required in the SWPPP for the period January 1, 2011 to the present.
2. Except for those provisions addressed under the Part C of this Order, within thirty (30) days of receipt of this Order, submit a written report and schedule identifying how each of the Potential Non-Compliance Items and Areas of Concern identified in the CWA Inspection Report has been and/or will be addressed.

E. GENERAL PROVISIONS

1. All information or documents required to be submitted by Respondent as part of this Order shall be sent by certified mail or its equivalent to the following addresses:

Douglas McKenna, Chief
Water Compliance Branch
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency - Region 2
290 Broadway, 20th Floor
New York, New York 10007-1866

Joe DiMura, P.E.
Director, Bureau of Water Compliance
New York State Department of Environmental Conservation
625 Broadway
Albany, New York 12233-3505

2. Pursuant to 40 CFR § 122.22, all information or documents required to be submitted by Respondent shall be signed by an authorized representative of Respondent, and shall include the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

3. Respondent shall have the opportunity, for a period of twenty (20) days from the date of receipt of this Order, to confer, regarding the Ordered Provisions, with the following designated Agency representative:

Douglas McKenna, Chief
Water Compliance Branch
Division of Enforcement and Compliance Assistance
U.S. Environmental Protection Agency - Region 2
290 Broadway, 20th Floor
New York, New York 10007-1866
(212) 637-4244

4. Respondent has the right to seek immediate federal judicial review of the Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706. Section 706, which is set forth at <http://uscode.house.gov/download/pls/05C7.txt>, which provides the grounds for such review.

5. This Order does not constitute a waiver from compliance with, or a modification of, the effective terms and conditions of the CWA, its implementing regulations, or any applicable permit, which remain in full force and effect. This Order is an enforcement action taken by EPA to ensure swift compliance with the CWA. Issuance of this Order shall not be deemed an election by EPA to forego any civil or criminal actions for penalties, fines, imprisonment, or other appropriate relief under the CWA.
6. Notice is hereby given that failure to comply with the terms of the CWA Section 309(a)(3) Compliance Order may result in your liability for civil penalties for each violation of up to \$37,500.00 per day under Section 309(d) of the CWA, 33 U.S.C. § 1319(d), as modified by 40 C.F.R., Part 19. Upon suit by EPA, the United States District Court may impose such penalties if, after notice and opportunity for hearing, the Court determines that you have violated the CWA as described above and failed to comply with the terms of the Compliance Order. The District Court has the authority to impose separate civil penalties for any violations of the CWA and for any violations of the Compliance Order.
7. Notice is hereby given that failure to comply with the requirements of the CWA Section 308 Information Request may result in your liability for civil penalties for each violation of up to \$37,500 per day under Section 309(d) of the CWA, as modified by 40 C.F.R. Part 19. Upon suit by EPA, the United States District Court may impose such penalties if, after notice and opportunity for a hearing, the Court determines that you have failed to comply with the terms of the Information Request. You may also be subject to administrative remedies for a failure to comply with the Information Request as provided by Section 309 of the CWA.
8. If any provision of this Order is held by a court of competent jurisdiction to be invalid, any surviving provisions shall remain in full force and effect.
9. This Order shall become effective upon the date of execution by the Director, Division of Enforcement and Compliance Assistance.

Dated: SEPTEMBER 16, 2014

Signed: _____

Dore LaPosta, Director

Division of Enforcement and Compliance Assistance

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 2**

IN THE MATTER OF:

Finch Paper, LLC
1 Glen Street
Glens Falls, NY 12801-2167

Proceeding pursuant to Sections 308(a) and
309(a)(3) of the Clean Water Act, 33
U.S.C. §§ 1318(a) and 1319(a)(3)

SPDES Permit No. NY0005525

RESPONDENT

**INFORMATION REQUEST AND
ADMINISTRATIVE COMPLIANCE ORDER**

CWA-02-2014-3052

**ACKNOWLEDGMENT OF RECEIPT OF
INFORMATION REQUEST AND ADMINISTRATIVE COMPLIANCE ORDER**

I, _____, an authorized representative of Finch Paper, LLC
with the title of, _____, do hereby acknowledge the receipt of copy of the

INFORMATION REQUEST AND ADMINISTRATIVE ORDER, CWA-02-2014-3052.

DATE: _____

SIGNED: _____



United States Environmental Protection Agency
Office of Enforcement and Compliance Assurance
Office of Criminal Enforcement, Forensics and Training

National Enforcement Investigations Center

NEIC

ENFORCEMENT CONFIDENTIAL

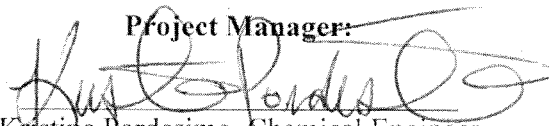
NEICVP1025E01

MULTIMEDIA COMPLIANCE INVESTIGATION

Finch Paper, LLC
Glens Falls, New York
NEIC Project No.: VP1025

May 2014

Project Manager:


Kristine Pordesimo, Chemical Engineer

Other Contributors:

Trent Rainey, Environmental Engineer
Linda TeKrony, Environmental Engineer
David Holzwarth, Information Technology Specialist

Prepared for:

EPA Region 2
290 Broadway
New York, New York 10007

Authorized for Release by:


Suzanne Schulman, Civil Services Section Chief

NATIONAL ENFORCEMENT INVESTIGATIONS CENTER

P.O. Box 25227
Building 25, Denver Federal Center
Denver, Colorado 80225

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#	Regulatory Citation	Observations	Supporting Documentation						
	<p>paragraph (j) of this section.</p> <p>40 CFR § 63.864(k)(3) – For purposes of determining the number of nonopacity monitoring exceedances, no more than one exceedance will be attributed in any given 24-hour period.</p> <p>Permit ID 5-5205-00005/00059</p> <p>Condition 30 – Pressure drop across the mist eliminators shall not be less than 6 inches of water. Facility will be in violation if six or more 3-hour block average readings during any 6-month period are below 6 inches.</p>	<table border="1"><tr><td>1/1/2012 – 6/30/2012</td><td>3/28/2012</td><td>X</td></tr><tr><td colspan="2">TOTAL</td><td>1</td></tr></table> <p>NEIC identified one 3-hour block average parameter value outside the established operating range for pressure drop for the No. 8 mist eliminator that was not reported by Finch from May 1, 2010, through May 1, 2013.</p> <p>Based on NEIC’s review of Finch’s “Semiannual Compliance Summary Reports for Gaseous and Opacity Excess Emissions and Continuous Monitoring System Performance” (CAA Appendix F), Finch did not report any 3-hour block average parameter values outside established operating ranges that occurred outside of SSM events from May 1, 2010, through May 1, 2013.</p>	1/1/2012 – 6/30/2012	3/28/2012	X	TOTAL		1	
1/1/2012 – 6/30/2012	3/28/2012	X							
TOTAL		1							
CLEAN WATER ACT (CWA) – TRENT RAINEY									
POTENTIAL AREAS OF NONCOMPLIANCE									
1	<p>40 CFR 122.1(b) <i>Scope of the NPDES permit requirement. (1) The NPDES program requires permits for the discharge of “pollutants” from any “point source” into “waters of the United States.” The terms “pollutant”, “point source” and “waters of the United States” are defined at § 122.2.”</i></p>	<p>Three outfalls were discovered during the on-site inspection that were not described and authorized under the SPDES permit. All three outfalls are in areas that could potentially receive pollutants from the mill production or wastewater treatment plant (WWTP) areas. A fourth possible outfall is identified on the Finch WWTP Site Plan but was not located in the field.</p> <p>The first unpermitted outfall is a polyvinyl (PVC) pipe that discharges into the Feeder Canal (See CWA Appendix J, photographs 54, 55, 56). It is located on the north bank of the canal along the west side of the Oak Avenue entrance bridge. This pipe receives runoff and potential spills off the road surface through a drop inlet located in the ramp leading to the bridge. This outfall could also possibly receive runoff from the area west of the Power House Building.</p> <p>The second unpermitted outfall is located across from the sulfur storage pile near the pulp mill (See CWA Appendix J, photographs 85, 86, 87). It discharges water and potential spills from the access road between the pulp mill and the Hudson River. A speed bump across the access road prevents runoff from the sulfur storage pile reaching this outfall.</p> <p>The third unpermitted outfall is a stormwater discharge located east</p>	<p>CWA Appendix J – CWA Photographs</p> <p>CWA Appendix H – Finch WWTP Site Plan</p>						

ENFORCEMENT CONFIDENTIAL – FOIA EXEMPT – DO NOT RELEASE

Contains Confidential Business Information

#	Regulatory Citation	Observations	Supporting Documentation
		<p>of the No. 3 secondary clarifier at the wastewater treatment plant (WWTP). It is fed by several drop inlets and discharges through a 30-inch pipe into the Hudson River. The outfall itself was not located in the field, but is shown in CWA Appendix H. If this outfall exists, it could discharge runoff from within the wastewater treatment plant area.</p> <p>A fourth possible unpermitted outfall is also shown on the WWTP Site Plan. It shows an 18-inch corrugated metal pipe discharging into the Hudson River. It is shown as being fed by three drop inlets located between the Holding and Dewatering Basin and the West Aeration Basin. This outfall could not be located in the field and may have been removed during modifications at the WWTP. If this outfall exists, it could also discharge runoff from within the wastewater treatment plant area.</p>	
2	<p>SPDES Permit No. 0005525, Part I, Special Conditions – Best Management Practices, 1. <i>The permittee shall maintain and implement a Best Management Practices (BMP) Plan to prevent, or minimize the potential for, release of significant amounts of toxic or hazardous pollutants to the waters of the State through plant site runoff; spillage and leaks; sludge or waste disposal; and stormwater discharges including, but not limited to, drainage from raw material storage.</i></p>	<p>As part of its original document request and also during the on-site inspection, NEIC requested the BMP plan. The document provided by Finch in response to these requests was referenced as the Stormwater Pollution Prevention Plan (SWPPP). This document was last revised in October 2008. The requirements of the BMP plan as described in the SPDES permit are not fully met by the SWPPP provided, as discussed in AONs 3, 4, and 5.</p>	<p>CWA Appendix A – SPDES Permit No. NY0005525</p> <p>CWA Appendix D – Stormwater Pollution Prevention Plan</p>
3	<p>SPDES Permit No. 0005525, Part I, Special Conditions – Best Management Practices, 2. <i>The permittee shall periodically review all facility components or systems (including material storage areas: in-plant transfer, process, and material handling areas; loading and unloading operations; storm water, erosion, and sediment control measures; process emergency control systems; and sludge and waste disposal areas) where toxic or hazardous pollutants are used, manufactured, stored or handled to evaluate the potential for the release of significant amounts of such</i></p>	<p>The SWPPP provided by Finch as part of the NEIC inspection did not meet the review requirement described in the SPDES permit. The SWPPP does not include a review of all facility components or systems; it is limited instead to only those areas potentially exposed to stormwater. There is no reference to consideration of the effects of equipment failure, even though such failure has resulted in the release of pollutants at the facility (2011 pump station failure). There is no reference to potential stormwater contamination due to settlement of air pollutants, potential contamination due to fire, natural phenomenon, or the history of spills at the facility. Finch provided no documentation showing a pattern of regular review.</p>	<p>CWA Appendix A – SPDES Permit No. NY0005525</p> <p>CWA Appendix D – Stormwater Pollution Prevention Plan</p>

ENFORCEMENT CONFIDENTIAL – FOIA EXEMPT – DO NOT RELEASE

Contains Confidential Business Information

#	Regulatory Citation	Observations	Supporting Documentation
	<i>pollutants to the waters of the State....</i>		
4	SPDES Permit No. 0005525, Part I, Special Conditions – Best Management Practices, 4. <i>The BMP plan shall include sampling of waste stream segments for the purpose of toxic hotspot identification...</i>	The SWPPP provided by Finch during the NEIC inspection included a limited sample of stormwater outfall sampling events. These samples were collected in 1992. No more recent sampling events were provided by the facility. There were no samples of waste stream segments collected for the determination of toxic hotspots included in the SWPPP as required under the permit.	CWA Appendix A – SPDES Permit No. NY0005525 CWA Appendix D – Stormwater Pollution Prevention Plan
5	SPDES Permit No. 0005525, Part I, Special Conditions – Best Management Practices, 7. <i>The BMP plan shall be reviewed annually and shall be modified whenever: (a) changes at the facility materially increase the potential for the release of toxic or hazardous pollutants...</i>	During its review of Finch's BMP and SWPPP, NEIC noted several deficiencies: 1. The SWPPP provided by the facility was last revised in October 2008. Finch was unable to provide records indicating an annual review had been conducted, as required. 2. The SWPPP has not been modified to reflect substantial changes in how stormwater in the production areas of the plant is being captured and managed. Several outfalls identified in the SWPPP and in the SPDES permit (outfalls 036, 037, 038, 039, 040, and 041) have been consolidated and redirected. 3. Several drop inlets in various production areas of the plant were not identified in the SWPPP as to whether they lead to a stormwater outfall or to the process wastewater sewer. Four are located in the area between the No. 4 paper machine building and the pulp preparation building. 4. The description of the outfalls discharging roof drainage from the paper machine building is inadequate. Outfalls 034 and 035 actually each contain several individual discharge pipes, which is not accurately described in the SWPPP or the SPDES permit.	CWA Appendix A – SPDES Permit No. NY0005525 CWA Appendix D – Stormwater Pollution Prevention Plan CWA Appendix J – CWA Photographs 89, 90, and 91 CWA Appendix J – CWA Photographs 61, 62, 63, 64, 65, 107, 108, 109, 110, 111, and 112. CWA Appendix J – CWA Photographs 66, 67, 68, 69, 70, 71, 72, and 75.
	AREAS OF CONCERN		
A	40 CFR 430.03 (h) Establishment of wastewater treatment system influent action levels. <i>(1) Each mill subject to this section must conduct a monitoring program, described in paragraph (h)(2) of this section, for the purpose of defining wastewater treatment system influent characteristics (or action levels), described in paragraph (h)(3) of this section, that will trigger requirements to</i>	As a means of determining the potential loss of pulping liquor from the production areas, pulp mills may be required to monitor organic content for the influent wastewater reaching the treatment plant. This monitoring requirement is not reflected in Finch's current SPDES permit. If this requirement were to be included in the permit in the future, Finch's influent monitoring installation may need to be modified to ensure a representative sample of influent wastewater is collected. The current installation does not receive a continuous flow, and operators manually collect a sample from a basin upstream of the sample collection point. This sample may	CWA Appendix J – CWA Photographs 1, 2, 3

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#	Regulatory Citation	Observations	Supporting Documentation
	<p>initiate investigations on BMP effectiveness and to take corrective action.</p> <p>(2) Each mill subject to this section must employ the following procedures in order to develop the action levels required by paragraph (h) of this section: (i) Monitoring parameters. The mill must collect 24-hour composite samples and analyze the samples for a measure of organic content (e.g., Chemical Oxygen Demand (COD) or Total Organic Carbon (TOC)). Alternatively, the mill may use a measure related to spent pulping liquor losses measured continuously and averaged over 24 hours (e.g., specific conductivity or color). (ii) Monitoring locations. For direct dischargers, monitoring must be conducted at the point influent enters the wastewater treatment system. For indirect dischargers monitoring must be conducted at the point of discharge to the POTW. For the purposes of this requirement, the mill may select alternate monitoring point(s) in order to isolate possible sources of spent pulping liquor, soap, or turpentine from other possible sources of organic wastewaters that are tributary to the wastewater treatment facilities (e.g., bleach plants, paper machines and secondary fiber operations).</p> <p>40 CFR 430.03 (i) Monitoring, corrective action, and reporting requirements. (1) Each mill subject to this section must conduct daily monitoring of the influent to the wastewater treatment system in accordance with the procedures</p>	<p>not be representative as to whether it is a time composite or a flow composite.</p>	

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#	Regulatory Citation	Observations	Supporting Documentation
	<p><i>described in paragraph (h)(2) of this section for the purpose of detecting leaks and spills, tracking the effectiveness of the BMPs, and detecting trends in spent pulping liquor losses.</i></p> <p>40 CFR 430.03 (i)(4) <i>Each mill subject to this section must report to the NPDES permitting or pretreatment control authority the results of the daily monitoring conducted pursuant to paragraph (i)(1) of this section. Such reports must include a summary of the monitoring results, the number and dates of exceedances of the applicable action levels, and brief descriptions of any corrective actions taken to respond to such exceedances. Submission of such reports shall be at the frequency established by the NPDES permitting or pretreatment control authority, but in no case less than once per year.</i></p>		
B	<p>SPDES Permit No. 0005525, Part II, Section 11, Paragraph 11.1.b. <i>The permittee shall, at all times, properly operate and maintain all facilities and systems of treatment and control (or related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit.)</i></p>	<p>At the time of the on-site inspection, both the primary and secondary clarifiers at the WWTP were operating without surface skimmers and a surface containment ring prior to the discharge weir. These pieces of equipment are used to contain and remove floatable and non-settling material that would otherwise be discharged over the effluent weir. During the inspection, NEIC observed oil and floatable solids in the primary clarifiers discharging over the effluent weir (See CWA Appendix J, photographs 5, 6, 11, 12, 17, 18, 19, 20, 21, and 22). NEIC observed pin floc discharging from the secondary clarifiers. The installation of surface skimmers and surface containment would limit the discharge of these materials and improve treatability of the wastewater and effluent quality.</p>	<p>CWA Appendix A – SPDES Permit No. 0005525</p> <p>CWA Appendix J – CWA Photographs</p>
C	<p>SPDES Permit No. 0005525, Part I, Special Conditions – Best Management Practices, 5. <i>The BMP plan shall be documented in narrative form and shall include any necessary plot plans, drawings or maps..... As a minimum, the plan shall include the following BMP's:</i></p>	<p>The SWPPP has only a brief narrative description for each of these items. The descriptions appear insufficient to serve the intended purpose and are inaccurate in some cases.</p> <p>1. The BMP committee is referenced by position title only, and the duties each member is responsible for are not described in detail.</p>	<p>CWA Appendix D – Stormwater Pollution Prevention Plan</p> <p>CWA Appendix I – Spill Notification Letter July 27, 2012</p> <p>CWA Appendix J – CWA</p>

ENFORCEMENT CONFIDENTIAL – FOIA EXEMPT – DO NOT RELEASE

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#	Regulatory Citation	Observations	Supporting Documentation
	<i>a. BMP Committee; b. Reporting of BMP Incidents; c. Risk Identification and Assessment; d. Employee Training; e. Inspections and Records; f. Preventive Maintenance; g. Good Housekeeping; h. Materials Compatability; i. Security; j. Spill Prevention and Response; k. Erosion and Sediment Control; l. Management of Runoff.</i>	<ol style="list-style-type: none"> 2. The BMP incidents section had not been updated to reflect incidents occurring since the October 2008 revision of the SWPPP, although spills were reported to the New York State Department of Environmental Conservation (CWA Appendix I). 3. The risk identification and assessment section has not been updated to reflect changes in some of the stormwater outfalls, and it fails to identify new discharge points and their associated risks (CWA Appendix J, photographs 44, 45, 46, 73, 74, 75). 4. The employee training section does not describe the frequency of training, training of new employees, documentation of training, and who provide the training. 5. The SWPPP indicates that the grounds and discharge points shall be inspected monthly. This section does not indicate what specific items are to be inspected. 6. The preventive maintenance section simply states that no stormwater management devices or testing facility equipment are employed. 7. The good housekeeping section only states that there are staff to address spills and cleanup on site. No proactive measures are described. 8. There is no section addressing materials compatibility. 9. There is no section addressing site security. 10. The spill prevention and response section only indicates there is transfer containment and references a list of absorbent equipment on-site. This section has not been updated since October 2008. There is no description of how spills will be responded to or by whom. 11. The erosion and sediment control section states there are no significant soil erosion areas. However, the area around the wood yard is unpaved and has uncovered soil and is constantly exposed to heavy vehicle traffic. This area has a significant erosion potential to the feeder canal. 12. The management of runoff section simply relists the various stormwater outfalls. This list has not been updated to reflect changes to the routing of stormwater and elimination of certain outfalls. 	Photographs
CLEAN AIR ACT SECTION 112(r) – LINDA TEKRONY			
POTENTIAL AREAS OF NONCOMPLIANCE			
1	40 CFR § 68.81(b) – <i>An incident investigation shall be initiated as</i>	One incident investigation was not initiated within 48 hours following the incident. The incident occurred on February 26,	CAA 112R Appendix A – February 26, 2010 Incident Documentation



CWA Picture 5 Surface of Primary Clarifier No. 1. Clarifier has no surface skimmer. Oil has accumulated on the surface of the clarifier.



CWA Picture 12 Looking over Primary Clarifier No. 3 to the south towards the gravity thickeners. There is a heavy layer of scum and oil on the surface of the clarifier.



CWA Picture 3 Composite sampler for the influent wastewater. Dipper is heavily coated with solids. Sample is collected in container to left and is not preserved. The sample container is also exposed to outside air and could be potentially contaminated.



CWA Picture 22 Secondary Clarifier No. 1 discharge over weir.